

Notice of Allowability

Application No.

09/801,353

Examiner

Quang D. Thanh

Applicant(s)

SCHWARTZ ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to a telephone interview on 06/02/2004.
2. ☒ The allowed claim(s) is/are 1-14, 16-21, 23-41 and 43-51.
3. ☒ The drawings filed on 04/02 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Peter Nieves on 06/02/2004.

The application has been amended as follows:

Claims 22 and 42 have been cancelled.

Claim 1 has been replaced with the following:

Claim 1: A bed cushion for supporting a person in a sitting position on an upper surface of a bed, comprising:

a back portion comprising a contoured forward surface and a generally planar rear surface, the surfaces separated by a padded interior;

at least one massage motor carried by the back portion;

a pair of padded armrests coupled to the back portion;

a light source for providing light for a user, the light source mounted to the back portion by an arm, wherein the back portion and the armrests have lower surfaces for resting on the upper surface of the bed; and

a speaker for generating sound waves, the speaker integral with the cushion.

In claim 23, line 1, "claim 22" has been replaced with – claim 1 –

Claim 27 has been replaced with the following:

Claim 27: A bed cushion for supporting a person in a sitting position on an upper surface of a bed, comprising:

a back portion comprising a contoured forward surface and a generally planar rear surface, the surfaces separated by a padded interior;

a plurality of massage motors enclosed between the forward surface and the rear surface ;

a pair of padded armrests coupled to the back portion;

a light source mounted to the back portion for providing light for a user, wherein the back portion and the armrests have lower surfaces for resting on the upper surface of the bed; and

a speaker for generating sound waves, the speaker integral with the cushion.

In claim 39, line 1, "claim 27" has been replaced with – claim 31 –.

In claim 43, line 1, "claim 42" has been replaced with – claim 27 –.

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Claim 49 has been replaced with the following:

Claim 49: A massaging bed rest cushion for supporting a person in a sitting position on an upper surface of a bed, comprising:

a back portion comprising a contoured forward surface and a rear surface, the surfaces separated by a padded interior,

a plurality of massage motors enclosed between the forward surface and the rear surface;

a light source mounted to the back portion for providing light for a user;

a pair of padded armrests coupled to the back portion;

a heater enclosed within the cushion, wherein the back portion and the armrests have lower surfaces for resting on the upper surface of the bed; and

a speaker for generating sound waves, the speaker integral with the cushion.

Claim 50 has been replaced with the following:

Claim 50: A massaging bed rest cushion for supporting a person in a sitting position on an upper surface of a bed, comprising:

a back portion comprising a contoured forward surface and a rear surface, the surfaces separated by a padded interior,

a plurality of massage motors enclosed between the forward surface and the rear surface;

a light source mounted to the back portion for providing light for a user;

a heater enclosed within the cushion;

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a pair of padded armrests coupled to the back portion;

a controller for altering the on/off status of the massage motors, wherein the back portion and the armrests have lower surfaces for resting on the upper surface of the bed; and

a speaker for generating sound waves, the speaker integral with the cushion.

Claim 51 has been replaced with the following:

Claim 51: A massaging bed rest cushion for supporting a person in a sitting position on an upper surface of a bed, comprising:

a back portion comprising a contoured forward surface and a rear surface, the surfaces separated by a padded interior,

a plurality of massage motors enclosed between the forward surface and the rear surface;

a light source mounted to the back portion for providing light for a user;

a controller for altering the on/off status of the massage motors;

a pair of padded armrests coupled to the back portion; and

an on/off device on the controller for altering the on/off status of the light source, wherein the back portion and the armrests have lower surfaces for resting on the upper surface of the bed; and

a speaker for generating sound waves, the speaker integral with the cushion.

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2. The following is an examiner's statement of reasons for allowance: the primary reason for allowance of the claims is the inclusion of a speaker integral with the cushion for generating sound waves. Although prior art Prosser (5,838,808) may suggest that a plurality of speakers can be secured within a conventional chair, in the examiner's opinion, it would not have been obvious to a person of ordinary skill to add speakers to a cushion that already has massage motors, a light and other elements as substantially claimed by applicants.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Quang D. Thanh whose telephone number is (703) 605-4354. The examiner can normally be reached on Monday-Thursday & alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nick Lucchesi can be reached on (703) 308-2698. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306 for regular and After-Final communications.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Art Unit 3764
June 2, 2004



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